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8 UNITED STATES DISTRICT COURT  
9  
10 NORTHERN DISTRICT OF CALIFORNIA

11 HO RIM KAM,

12  
13 Petitioner,

14 v.

15 MARTIN LUTHER KING, JR.-MARCUS  
GARVEY SQUARE COOPERATIVE BOARD  
OF DIRECTORS,

16  
17 Respondent.

Case No.: C 07 4414 (SBA)

**[REVISED PROPOSED] ORDER  
TO SHORTEN THE TIME FOR  
HEARING OF MOTION TO  
REMAND  
(NORTHERN DISTRICT LOCAL  
RULE 6-3)**

The Honorable Sandra B. Armstrong  
Date: N/A  
Time: N/A  
Court: Courtroom 3, 3<sup>rd</sup> Floor

18  
19 The motion of Petitioner Ho Rim Kam for an order shortening the time for hearing of  
20 his Motion to Remand came on for hearing before this Court, with Heller Ehrman LLP  
21 appearing as attorney for Petitioner and Kaufman, Dolowich & Voluck LLP appearing for  
22 Respondent. Notice of the Motion was properly made.

23 **BACKGROUND**

24 This action originated as a Verified Petition for Issuance of Peremptory Writ of  
25 Mandamus, filed by Petitioner Ho Rim Kam in the California Superior Court, in and for the  
26 County of San Francisco. The Petition was filed on August 6, 2007, served on Respondent  
27 on August 8, and removed to this Court by Respondent's Notice of Removal filed on  
28 August 27, 2007, pursuant to 28 U.S.C. § 1331.

1 Petitioner filed a timely Notice and Motion for Remand on August 31, 2007, arguing  
2 that his Petition alleges no federal cause of action and raises no federal question. Petitioner  
3 points out that, under the standard briefing schedule set forth in Local Rule 7-2(a), Mr.  
4 Kam's Motion to Remand could not be heard until October 16, 2007, more than six weeks  
5 after his original Petition for Writ of Mandate was set to be heard in the Superior Court.

6 Accordingly, Petitioner requests that this Court shorten the time for hearing on his  
7 Motion to Remand, pursuant to Local Rule 6-3, so that the expedited California Writ of  
8 Mandate proceeding may continue in the California Superior Court.

### 9 LEGAL STANDARD

10 Under Local Rule 6-3 (d), "After receiving a motion to ...shorten time and any  
11 opposition, the Judge may grant, deny, modify the requested time change...." Such a  
12 request is addressed to the Court's discretion.

### 13 ANALYSIS

14 As shown in his moving papers, Mr. Kam filed his Petition for Writ of Mandate in  
15 San Francisco Superior Court on August 6, 2007. The Petition was served on the President  
16 of Respondent Board on August 8, 2007. Because such a writ is intended quickly to redress  
17 the injury suffered when a duly elected board member of a California non-profit corporation  
18 is improperly prevented from exercising the rights of his office, California Code of Civil  
19 Procedure §1085 et seq, provides for a shortened notice period of as little as ten days.  
20 Petitioner's Writ was scheduled to be heard on August 22, 2007. On August 27, the  
21 response date for the writ, Respondent removed the case to this Court, claiming that Mr.  
22 Kam's petition arises under federal law. This removal has delayed the state Court's ruling  
23 on the mandamus action, and threatens still further delay.

24 The Court finds that Mr. Kam has shown good cause for shortening time for the  
25 hearing on his Motion to Remand this action to the California Superior Court. Substantial  
26 prejudice will result if the notice period is not shortened, in that Mr. Kam is being prevented  
27 from representing the Cooperative shareholders who elected him. Only a prompt resolution  
28 of the Writ will allow Mr. Kam and his constituency to address critical financial issues now

1 facing the Board. The question of federal removal jurisdiction must be settled first,  
2 however, before that Writ proceeding may continue.

3 Further, shortening time is consistent with the purpose of the California Mandamus  
4 statute, and the issues presented by the Remand Motion are capable of prompt resolution  
5 upon the pleadings.

6 Mr. Kam's Application makes all of the required showings under Local Rule 6-3.

7 **CONCLUSION**

8  
9 Accordingly, after full consideration of the moving and opposing papers, the Court  
10 grants Petitioner's motion to shorten time of notice and advance the hearing date of the  
11 Motion to Remand. It is therefore ORDERED as follows:

12  
13 Opposition of Martin Luther King, Jr.-Marcus Garvey Square September 6, 2007  
Cooperative Board of Directors' ("the Board") to Motion to

14 Remand to be filed and served by hand or facsimile

15 Petitioner's Reply to be filed and served by hand or facsimile September 10, 2007

16 Motion to Remand

September 11, 2007 at  
1:00 p.m.

17 DATED: \_\_\_\_\_

18  
19 \_\_\_\_\_  
JUDGE OF THE UNITED STATES  
DISTRICT COURT